

## EQUITABLE LIFE SURPLUS.

### STATEMENT FOR THE COMPANY ABOUT THE GREEFF DECISION.

The Surplus Belongs to the Policyholders and the Questions When and How It Shall Be Divided Remains to Be Settled.

James W. Alexander, Vice-President of the Equitable Life Assurance Society, who, it is understood, will succeed the late Henry B. Hyde as President of the company, made a statement yesterday about the decision rendered on Tuesday by the Appellate Division of the Supreme Court in Brooklyn in the suit of Emil Greff, a policyholder. Not many decisions by the courts in recent years have attracted so much attention as this decision, which states that, when the Equitable Society has determined what its surplus is, it must "make an equitable distribution, not of a portion of the fund, but of all of it." Mr. Alexander said:

"The bold statement of the decision is calculated to give the affair an air of greater importance than it deserves. For example, there is no question about the entire surplus of the Equitable and other mutual companies belonging to the policyholders. The only question is how it shall be divided and when. Neither is there any question about the immediate division of the entire surplus of the society. The question arises in regard to a marginal surplus of \$100,000 or thereabouts, very properly carried over from year to year as a guarantee against fluctuations in values. The plaintiff in this action believes he is entitled to receive a part of this in addition to his share of surplus, which he has received."

In view of the formal opinion preceding an inquiry into what he would be entitled to receive under a trial of the action. In order to avoid a very difficult question, the society's counsel preferred to demur to the complaint, which in common parlance is much as to say, "Even admitting the facts alleged, the plaintiff is not entitled to relief." Judge Hyde, in the court below, held in a learned opinion that the discretion of the officers of the society in the matter of the distribution of funds in its opinion, but the majority held that the matter is a fair subject for inquiry.

The surplus of the society is divided into two parts, one, and by far the larger part, being held under contract for the deferred dividend policyholders. The holders of these policies are entitled to their dividends in full as determined by the actuaries of the society as soon as they become entitled to it.

The other and smaller part is available from year to year according to the discretion of the society among the annual dividend policyholders. Mr. Greff was one of these annual dividend policyholders.

Mr. Greff was one of the 5000 who voted that his share would be not the \$5000 claimed.

An application is to be made of cause to have the case tried in the Court of Appeals, and even upon an adverse decision there the question would come up on trial with the new light of facts which in the opinion of our counsel, will be favorable to the plaintiff.

It must be remembered that in arguing legal points on a demurrer the appearance is necessary, and that unfortunately, that of a demurrer is not entitled to be sustained by a plaintiff which might be entirely changed and modified, and would be in the present case on trial if the case were to go to trial. The suit has not yet been brought to trial on the facts, the society preferring to settle in advance some questions arising on the pleadings, and the court of appeals will be asked to do so.

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Charles H. Schuyler & Co. have sold to the Post estate the property on the southwest corner of Greene and Harrison streets for \$100,000; also to Samuel McMillan, the northwest corner of Greene and Beach streets, 25x50, for \$45,000; to John C. Peacock, the northeast corner of Harrison and Beach, 25x50, for \$52,000; No. 10, Waverly place, the southwest corner of Mercer street, for \$60,000.

The Post estate company has sold, in conjunction with the Peacock estate, for Robert Wallace, the two new five-story stone front American basements, 18x85x100.

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